

REMARKS

This amendment responds to the final office action dated April 14, 2009.

The Examiner rejected each of claims 1-20 and 25 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. As explained in detail below, the applicant has amended each of independent claims 1, 20, and 25 to overcome this rejection. The claims of the present application are not rejected over the prior art of record, hence the claims as presently amended should be allowable.

Each of claims 1, 20, and 25 have been amended to specify that the claimed steps by which an image is transformed, quantized, and encoded are performed by a “processing device.” These limitations are supported by the Specification at p. 4 lines 3-13 and at p. 4 line 17 – p. 5 line 10. The specification also gives illustrative examples of particular devices that could benefit from the claimed methods, e.g. digital cameras, Internet-based computing devices, image databases, etc. *See* Specification at p. 1 line 23 – p. 2 line 1. The added limitation of a processing device that performs specified steps certainly overcomes the Examiner’s rejection. *See, e.g.* *Ex Parte Wayne Lewis Dickerson, Jr., Appeal 2009-001172 (BOPAI 2009).* In *Ex Parte Dickerson*, the Board of Patent Appeals of Interferences overturned an Examiner’s rejection under 35 U.S.C. § 101 of claims directed to a “method and system for increasing the business value of a company in an industry by identifying a solution based upon its impact and the company’s performance gaps.” The claims at issue merely recited in their respective preamble that the method was “computerized” and recited a step that the “solution” derived from the claimed method was “output[] . . . from the computer system.” The claims were held statutory because the step of outputting information from a computer “tied [the method claims] to a particular machine or apparatus.” *See Id.* at p. 16.

Certainly, if the mere recitation that a result or solution achieved from a recited series of steps be “output by a computer”, is sufficient to render a method claim statutory, then the applicant’s amended limitations, which specify method steps themselves that are performed by a processing device, overcome the Examiner’s rejection under 35 U.S.C. § 101.

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Amdt. dated July 14, 2009
Reply to Office action of April 14, 2009

As noted earlier, the only rejection of the pending claims is made under 35 U.S.C. § 101, and given the Examiner's comments that claims 1-20 and 25 are would otherwise be allowable, the applicant requests that a Notice of Allowance be issued in this case.

Respectfully submitted,



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